

REMARKS

Claims 1-18 are pending in the application.

Specification and Claims

Minor changes have been made to the specification and claims to place them in better form for U.S. practice.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 4-9, and 17 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Tamura et al. (USP 6,729,123). This rejection is respectfully traversed.

The Examiner alleges, in the Office Action that Tamura discloses the “operative state detecting means,” and the “exhaust flow control limiting means” recited in claim 1. Applicants respectfully disagree.

Tamura states, in col. 10, lines 54-62, that “the air/fuel ratio of the mixture burned in the main combustion following the main injection needs to be set to an ultra-lean air/fuel ratio, and increase of the exhaust resistance due to the exhaust gas flow restraint makes it difficult event to maintain the limit. However, with the slight lean air/fuel ratio, sufficient engine torque can be produced, and even if acceleration is demanded immediately after the starting, sufficiently high acceleration performance can be ensured.”

In other words, Tamura merely states that a sufficient torque can be generated under the slight lean air/fuel ratio even when the exhaust resistance is increased by the exhaust gas flow restraint.

Tamura also states in col. 11, lines 15+, with regard to the flowcharts shown in Fig. 5, that "In step S30, it is determined whether or not the predetermined time t_1 (e.g. 3 sec) has elapsed after the start of the engine 1," "In step S32, it is determined whether or not the predetermined time t_2 (e.g. 45 sec to 2 min) has elapsed after the start of the engine 1," "In Step 34, it is determined whether or not a predetermined time t_3 (e.g., 15 sec) has elapsed after the start of the engine 1," and "In Step S36, it is determined whether or not an engine load L takes a value lower than or equal to a predetermined value L_1 , that is, whether or not acceleration of the engine 1 has been demanded."

In other words, Tamura merely determines whether or not acceleration of the engine 1 has been demanded after determining several conditions based on a plurality of elapsed time after the start of the engine, and does not determine "a period of time elapsed after the vehicle starts accelerating from standstill," as required in claim 1. Accordingly, Tamura fails to disclose or suggest the "operative state detecting means" as recited in claim 1.

Claims 4-9, variously dependent on claim 1, are allowable at least for their dependency on claim 1.

Claim 17 is allowable at least for the similar reasons as stated in the foregoing with regard to claim 1.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

Allowable Subject Matter

Applicants appreciate the Examiner's indication that claims 2, 3, and 10-16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 3, and 10 have been amended to include all of the limitations of claim 1 to place them in condition for allowance.

Claims 11-16, variously dependent on claim 10, are allowable at least for their dependency on claim 10.

A favorable determination by the Examiner and allowance of these claims is earnestly solicited.

Applicants also appreciate the Examiner's indication that claim 18 is allowable over the prior art of record.

Conclusion


Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and objections, and allowance of the pending claims are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Maki Hatsumi (#40,417) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

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Respectfully submitted,

for By  (reg. # 40,419)
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